



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

May 2, 2019

Stephanie Rogers  
President  
Henderson Collegiate High School  
906 Health Center Road  
Henderson, NC 27536

Re: OCR Complaint No. 11-19-1017  
Letter of Findings

Dear Ms. Rogers:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received on October 8, 2018 against Henderson Collegiate High School (the School). The Complainant alleged that the School discriminated against the Student on the basis of her disability (XXXXX). Specifically, the complaint alleged that the School excluded the Student from participation in, denied her the benefits of, and/or otherwise subjected her to discrimination under the School's programs or activities on the basis of disability when it:

1. Did not provide the Student the same number of elective courses to choose from in June 2018;
2. Did not provide any information about the Student's teachers or schedules at the School's "Back-to-School Night" in August 2018; and
3. Did not provide any information to the Student about the School's "College Night" in September 2018.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the School receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

Before OCR completed its investigation, the School expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement, pursuant to Section

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness  
by fostering educational excellence and ensuring equal access.*

302 of OCR's *Case Processing Manual*. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

The Student is currently a XXXXX student who receives special education and/or related aids and services at the School.

### **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.4, and the Title II regulation, at 28 C.F.R. § 35.130(a), provide that no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the School's programs or activities on the basis of disability.

When investigating an allegation of different treatment, OCR first determines whether there is sufficient evidence to establish an initial, or prima facie, case of discrimination. Specifically, OCR determines whether the School treated the Student less favorably than similarly situated individuals without disabilities. If so, OCR then determines whether the School had a legitimate, nondiscriminatory reason for the different treatment. Finally, OCR determines whether the reason given by the School is a pretext, or excuse, for unlawful discrimination.

### **Allegation 1**

The School excluded the Student from participation in, denied her the benefits of, and/or otherwise subjected her to discrimination under the School's programs or activities on the basis of her disability, when it did not provide the Student the same number of elective courses to choose from in June 2018.

Specifically, the Complainant alleged that, in June 2018, when the Student was choosing classes for the upcoming Fall 2018 semester, the School offered the following elective courses to other students without disabilities, but it did not offer the same to the Student: XXXXX. The Complainant alleged that the Student was only given the option of electives that would not require modifications of the course due to the Student's disability.

The School denied that it treated the Student differently from students without disabilities. The School stated that the Student chose her electives with one of the educators at the School, including a XXXXX course. The School explained that the Complainant and her husband had to give permission for the Student to enroll in the XXXXX course, which they did at a meeting with School staff on an unspecified date. The School asserted that the Student had the same choice of electives as other students and the same level of input as traditionally developing age peers.

However, the Complainant disputed that she and her family met with School staff to discuss elective courses for the Fall 2018 semester, or that they discussed the Student's XXXXX course until she was already enrolled in the course.

### **Analysis**

Based on the foregoing, OCR has determined that the Complainant has asserted an initial case of discrimination with respect to whether the School failed to provide the Student the same number of elective courses to choose from in June 2018, as it did for students without disabilities. However, before OCR completed its investigation, the School expressed a willingness to resolve Allegation 1, pursuant to Section 302 of OCR's *Case Processing Manual*.

### **Allegation 2**

The School excluded the Student from participation in, denied her the benefits of, and/or otherwise subjected her to discrimination under the School's programs or activities on the basis of her disability, when it did not provide any information about the Student's teachers or schedules at the School's "Back-to-School Night" in August 2018.

Specifically, the Complainant alleges that during the School's "Back-to-School Night" in August 2018, the School provided other students with the opportunity to meet their teachers, receive their schedules, and hear about expectations for the then upcoming 2018-2019 school year. However, the Complainant alleges that the Student's teachers did not attend the event, and the Student was not provided her class schedule and teacher roster.

The School denied that it treated the Student differently from students without disabilities. The School asserted that it did not provide information concerning any student's teachers or schedule during Back-to-School Night, because that was not the purpose of the event. Instead, the School asserted that it moved all students through three informational stations on the following topics: the upcoming opening of the new high school building; the School's vision for students 24 months away from attending college; and School uniform orders. The School asserted that no student schedules were discussed, because the schedules had not been finalized and prepared for distribution. The School explained that although the team of teachers and administrators for XXXXX introduced themselves as part of the presentation, there was no discussion of which specific students had which specific teachers or of student schedules.

### **Analysis**

Based on the foregoing, OCR has determined that the Complainant has asserted an initial case of discrimination with respect to whether the School failed to provide the Student with information about her teachers or schedules at the School's "Back-to-School Night" in August 2018. However, before OCR completed its investigation, the School expressed a willingness to resolve Allegation 2, pursuant to Section 302 of OCR's *Case Processing Manual*.

### **Allegation 3**

The School excluded the Student from participation in, denied her the benefits of, and/or otherwise subjected her to discrimination under the School's programs or activities on the basis of her disability, when it did not provide any information to the Student about the School's "College Night" in September 2018.

In September 2018, the School hosted a “College Night” for students and their families. At the College Night, information about college entrance exams, financing, and college admission requirements was provided to students. The Complainant alleged that while other students were provided a report with their ACT and SAT scores, the School did not initially prepare that same report for the Student until halfway through the event. Further, the Complainant alleged that the School’s list of colleges did not include any colleges that the Student would qualify for, given XXXXX.

The School denied that it treated the Student differently from students without disabilities. The School asserted that the Student and her family received the same level of notification provided to all members of XXXXX prior to the College Night, and that the Student suffered no harm because the Student and her parents participated in the College Night event.

### Analysis

Based on the foregoing, OCR has determined that the Complainant has asserted an initial case of discrimination with respect to whether the School failed to provide the Student the same information during the School’s “College Night” in September 2018, as received by students without disabilities. However, before OCR completed its investigation, the School expressed a willingness to resolve Allegation 3, pursuant to Section 302 of OCR’s *Case Processing Manual*.

### Conclusion

Pursuant to Section 302 of OCR’s *Case Processing Manual*, the School signed the enclosed Resolution Agreement (the Agreement) on May 2, 2019, which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant and the information discussed above that was obtained during OCR’s investigation, and are consistent with applicable law and regulation. OCR will monitor the School’s implementation of the Agreement until the School is in compliance with the statutes and regulations at issue in the case. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR’s investigation of the complaint. This letter should not be interpreted to address the School’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the School must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the School's cooperation in the resolution of this complaint. If you have any questions regarding this letter, please contact Dwayne J. Bensing, the OCR attorney assigned to this complaint, at 215-656-8539 or [Dwayne.Bensing@ed.gov](mailto:Dwayne.Bensing@ed.gov).

Sincerely,

Letisha Morgan-Cosic  
Team Leader, Team II  
Office for Civil Rights  
District of Columbia Office

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